

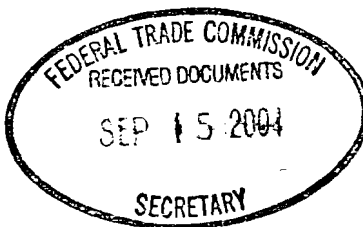


FERNLEY & FERNLEY

EST. 1886

1000 ARCH STREET
PHILADELPHIA, PA 19103
215-564-3484 EXT. 200
FAX 215-564-2175
WWW.FERNLEY.COM

September 8, 2004



G. A. Taylor Fernley
PRESIDENT & CEO

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: *American Society of Association Executives/ CAN-SPAM Act Rulemaking, Project No. R411008 addressing the definition and implementation of the Act as set forth in sections 3(2)c and 3(17)(B).*

Our firm is an association management company, part of an industry that collectively manages over 3,000 nonprofit associations and societies with annual budgets of over 3.4 billion dollars. Communication between our association clients and their members would be negatively affected by the proposed CAN-SPAM rule, issued on August 13.

The tax-exempt nonprofit organizations we manage exist to serve their members and constituencies who seek out membership and/or involvement in the organization. To assist individuals and others in achieving their goals, tax-exempt nonprofit organizations continuously strive to offer a variety of messages. Email has become the preferred vehicle to deliver these messages.

For this reason we believe the proposed rule would create an unfair regulatory burden on communication with our members. We reiterate our request that the Commission's rule-making expressly provide that email transmitted by a tax-exempt nonprofit organization, primarily related to one or more of the organization's duly authorized tax exempt nonprofit purposes, not be considered commercial electronic mail messages under the Act and, therefore, be specifically exempt from regulation under the Act.

Sincerely,

G. A. Taylor Fernley
President & CEO